

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

BRIAN K. BOWLBY,)
No. B88543,)
)
Plaintiff,)
)
vs.) Case No. 14-cv-00773-NJR
)
SALINE COUNTY SHERIFF'S DEPT.,)
)
Defendant.)

MEMORANDUM AND ORDER

ROSENSTENGEL, District Judge:

On July 9, 2014, Plaintiff Brian K. Bowlby, an inmate in Lawrence Correctional Center, initiated this action for alleged deprivations of his constitutional rights pursuant to 42 U.S.C. § 1983 (Doc. 1). Bowlby alleged that he was wrongfully indicted, arrested, and convicted of predatory criminal sexual assault of a child and criminal sexual abuse. According to the complaint, Bowlby's direct appeal was still pending when the action was filed.

The complaint was dismissed without prejudice, and Plaintiff was given a window of opportunity to file an amended complaint. But the Court observed at that time that the complaint appeared to be premature, and the proper avenue for relief might be via a *habeas corpus* petition (Doc. 5). Bowlby was forewarned that, if he failed to file an amended pleading, final judgment would be entered. The Court also noted that the obligation to pay the filing fee was incurred when the complaint was filed. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

Despite requesting and receiving two extensions of time (*see* Docs. 7-10), Bowlby has failed to file an amended pleading, and it appears that he has abandoned this action. Although dismissal would usually be with prejudice, given the somewhat muddled nature of the case, in its discretion, the Court will dismiss the action without prejudice, and a “strike” will not be assessed for purposes of 28 U.S.C. § 1915(g).

Accordingly, this action is **DISMISSED without prejudice**. Plaintiff will not be allotted a strike under the provisions of 28 U.S.C. § 1915(g). Judgment shall enter, and this case will be closed. Nonetheless, Plaintiff remains obligated to pay the filing fee. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

IT IS SO ORDERED.

DATED: December 3, 2014



NANCY J. ROSENSTENGEL
United States District Judge